

[JOINT FILING — SEE SIGNATURE PAGE FOR COUNSEL]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

eBay Inc. and Microsoft Corporation,)	No. 4:10-cv-4947-CW (filed Nov. 2, 2010)
)	No. 4:10-cv-5106-CW (filed Nov. 10, 2010)
<i>Plaintiffs and Counterclaim-Defendants,</i>)	No. 4:10-cv-5108-CW (filed Nov. 10, 2010)
)	No. 4:11-cv-0502-CW (filed Feb. 2, 2011)

vs.

PartsRiver, Inc. and Kelora Systems, LLC,)
<i>Defendants and Counterclaim-Plaintiff.</i>)

**JOINT STIPULATION AND ORDER
REGARDING CASE SCHEDULE**

Shopzilla, Inc.,

Plaintiff,

vs.

Kelora Systems, LLC,

Defendant.

[Civil L.R. 6-2 and 7-12]

The Court held an Initial Case Management Conference for these four actions on March 17, 2011. Rather than set a schedule for these four actions, the Court encouraged the parties to meet and confer in an effort to reach agreement on a schedule for each action. The parties have met and conferred and have reached agreement on the following deadlines:

<u>Description</u>	<u>Kelora's Proposal</u>	<u>Plaintiffs' Proposal</u>
Deadline for joining parties and amending pleadings	21 days from Court's decision on the motions to dismiss heard on 3/17	
Disclosure of Asserted Claims and Infringement Contentions (Patent L.R. 3-1) Document Production Accompanying Disclosure (Patent L.R. 3-2)	Thursday May 12, 2011	
Invalidity Contentions (Patent L.R. 3-3) Document Production Accompanying Invalidity Contentions (Patent L.R. 3-4)	Tuesday June 28, 2011	
Exchange of Proposed Terms for Construction (Patent L.R. 4-1)	Thursday July 14, 2011	
Exchange of Preliminary Claim Constructions and Extrinsic Evidence (Patent L.R. 4-2)	Thursday August 4, 2011	
Joint Claim Construction and Prehearing Statement (Patent L.R. 4-3)	Thursday August 25, 2011	
Completion of Claim Construction Discovery (Patent L.R. 4-4)	Friday September 2, 2011	
DJ Plaintiffs to file opening brief re: claim construction and any dispositive motions related to claim construction (contained within a single 25-page brief)	Thursday September 15, 2011	
DJ Defendant(s)' opposition and any cross-motion contained within a single brief	Thursday October 6, 2011	
DJ Plaintiffs' reply / opposition to cross-motion (contained within a single brief)	Thursday October 27, 2011	

<u>Description</u>	<u>Kelora's Proposal</u>	<u>Plaintiffs' Proposal</u>
DJ Defendant(s)' surreply	Thursday November 3, 2011, by DJ Defendants	
Hearing on claim construction and related dispositive motions	Thursday November 17, 2011 2:00 p.m.	
Completion of Fact Discovery	Friday February 3, 2012	
DJ Plaintiffs to produce or make available opinion of counsel and related documents relied upon as defense to willful infringement, etc. (Patent L.R. 3-7)	50 days after Claim Construction Order	
Disclosure of identities and reports of expert witnesses	50 days after Claim Construction Order	
Rebuttal expert reports	21 days after opening reports	
Completion of Expert Discovery	49 days after opening reports	
Case Management Conference to finalize schedule(s) for trial(s)	Tuesday April 10, 2012, 2:00 p.m.	
Parties to exchange (but not file or lodge) the papers described in Civil L.R. 16-10(b) (7), (8), (9), and (10), and their motions in limine (Standing Order for Pretrial Preparation, ¶ 1)	30+ days before final pretrial conference	
Deadline to meet and confer regarding Pretrial Conference Statement (Standing Order for Pretrial Preparation, ¶ 2)	21 days before final pretrial conference	
File Joint Pretrial Conference Statement, exhibit list and objections, witness list, discovery responses, trial briefs, motions in limine, joint proposed voir dire, joint proposed jury instructions, and proposed verdict forms (Standing Order for Pretrial Preparation, ¶ 3)	14 days before final pretrial conference	

<u>Description</u>	<u>Kelora's Proposal</u>	<u>Plaintiffs' Proposal</u>
Final Pretrial Conference	14 days before trial	
Trial(s)	10 days of trial(s) beginning July 16, 2012 (with the format of the trial(s) to be determined at the CMC on April 10, 2012)	

Although the Court indicated during the March 17, 2011 Case Management Conference that it was inclined to have expert discovery before claim construction, both parties agree that it is more efficient to have expert reports after claim construction. The Court previously granted the parties' request to have expert discovery after claim construction in the original matter. *See* Case No. 09-0811, Docket No. 232; Ex. A at 1-2.

The only previous time modification for these cases was to continue their CMCs to March 17, 2011. The schedules for each of these cases have yet to be fully set by the Court, and the requested changes to the case schedules will have no significant effect on those dates already scheduled by the Court.

In addition, in accordance with the Court's instructions during the March 17, 2011, Case Management Conference, Kelora advises the Court that Kelora produced to Plaintiffs' counsel on March 23, 2011, copies of agreements that relate to the ownership and/or rights with respect to the '821 patent as between PartsRiver and Kelora.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
2
3

4 Dated: April 19, 2011

By: /s/ Robert D. Becker

5 Robert D. Becker (Bar No. 160648)

<rbecker@manatt.com>

6 Ronald S. Katz (Bar No. 85713)

<rkatz@manatt.com>

7 Shawn G. Hansen (Bar No. 197033)

<shansen@manatt.com>

8 MANATT, PHELPS & PHILLIPS, LLP

1001 Page Mill Road, Building 2

9 Palo Alto, CA 94304-1006

Telephone: (650) 812-1300

10 Facsimile: (650) 213-0260

11 *Counsel for PartsRiver, Inc. and Kelora*
12 *Systems, LLC*
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: April 19, 2011

By: /s/ Marc R. Ascolese

David T. Pritikin (*pro hac vice*)
<dpitikin@sidley.com>
Richard A. Cederoth (*pro hac vice*)
<rcederoth@sidley.com>
SIDLEY AUSTIN LLP
One S. Dearborn Street
Chicago, Illinois 60603
Telephone: (312) 853-7000
Facsimile: (312) 853-7036

Theodore W. Chandler (Bar No. 219456)
<tchandler@sidley.com>
SIDLEY AUSTIN LLP
555 West Fifth Street, Suite 4000
Los Angeles, California 90013
Telephone: (213) 896-6000
Facsimile: (213) 896-6600

Marc R. Ascolese (Bar No. 251397)
<mascolese@sidley.com>
SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, California 94104
Telephone: (415) 772-1200
Facsimile: (415) 772-7400

<Kelora-Microsoft-eBay@sidley.com>

David E. Killough (Bar No. 110719)
<davkill@microsoft.com>
MICROSOFT CORPORATION
One Microsoft Way, 8/2076
Redmond, Washington 98052
Telephone: (425) 703-8865
Facsimile: (425) 869-1327

Counsel for Microsoft Corporation

1
2 Dated: April 19, 2011

By: /s/ Marc R. Ascolese

3 David T. Pritikin (*pro hac vice*)
4 <dpitikin@sidley.com>
5 Richard A. Cederroth (*pro hac vice*)
6 <rcederroth@sidley.com>
7 SIDLEY AUSTIN LLP
8 One S. Dearborn Street
9 Chicago, Illinois 60603
10 Telephone: (312) 853-7000
11 Facsimile: (312) 853-7036

12 Theodore W. Chandler (Bar No. 219456)
13 <tchandler@sidley.com>
14 SIDLEY AUSTIN LLP
15 555 West Fifth Street, Suite 4000
16 Los Angeles, California 90013
17 Telephone: (213) 896-6000
18 Facsimile: (213) 896-6600

19 Marc R. Ascolese (Bar No. 251397)
20 <mascolese@sidley.com>
21 SIDLEY AUSTIN LLP
22 555 California Street, Suite 2000
23 San Francisco, California 94104
24 Telephone: (415) 772-1200
25 Facsimile: (415) 772-7400

26 <Kelora-Microsoft-eBay@sidley.com>

27 *Counsel for eBay Inc.*
28

Dated: April 19, 2011

By: /s/ Jordan Trent Jones

Jordan Trent Jones (Bar No. 166600)
<jtjones@jordanjonesiplaw.com>
Law Offices of Jordan Trent Jones
100 Spear Street, 18th Floor
San Francisco, CA 94105
Telephone: (415) 357-8940
Facsimile: (415) 371-0500

James G. Gilliland Jr. (Bar No. 107988)
<jgilliland@kilpatricktownsend.com>
KILPATRICK TOWNSEND & STOCKTON LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111
Telephone: (415) 576-0200
Facsimile: (415) 576-0300

Eric M. Hutchins (Bar No. 245462)
<ehutchins@kilpatricktownsend.com>
Hogene L. Choi (Bar No. 256617)
<hchoi@kilpatricktownsend.com>
379 Lytton Avenue
Palo Alto, CA 94301
Telephone: (650) 326-2400
Facsimile: (650) 326-2422

Counsel for Shopzilla, Inc.

SIGNATURE ATTESTATION

Pursuant to General Order No. 45(X)(B), I hereby certify that concurrence in the filing of this document has been obtained from each of the other signatories shown above.

_____/s/ Marc R. Ascolese

SCHEDULING ORDER

IT IS HEREBY ORDERED that the following schedule shall apply to Civil Action Nos. 4:10-cv-4947-CW, 4:10-cv-5106-CW, 4:10-cv-5108-CW, and 4:11-cv-00502-CW:

<u>Description</u>	<u>Kelora's Proposal</u>	<u>Plaintiffs' Proposal</u>
Deadline for joining parties and amending pleadings	21 days from Court's decision on the motions to dismiss heard on 3/17	
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<u>Description</u>	<u>Kelora's Proposal</u>	<u>Plaintiffs' Proposal</u>
Final Pretrial Conference	June 26, 2012 at 2:00 p.m.	
Trial(s)	10 days of trial(s) beginning July 16, 2012 (with the format of the trial(s) to be determined at the CMC on April 10, 2012)	

SO ORDERED.

Dated: 4/21/2011


CLAUDIA WILKEN
United States District Judge